

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID WHEELER,

Plaintiff,

vs.

LUXOR SECURITY DEPARTMENT,

Defendant.

Case No. 2:11-cv-00099-PMP-PAL

ORDER

(Mtn to Strike - Dkt. #27)

This matter is before the court on Defendant's Motion to Strike Plaintiff's Reply in Support of its Motion Not to Dismiss the Second Amended Complaint (Dkt. #27). Defendant contends that Plaintiff previously filed an Opposition (Dkt. #22) to Defendant's Motion to Dismiss (Dkt. #20) and did not seek leave to file additional arguments.

On July 29, 2011, the court granted Defendant's Motion to Dismiss the Amended Complaint (Dkt. #19). On August 10, 2011, Defendant filed a Motion to Dismiss the Second Amended Complaint (Dkt. #20). Plaintiff filed an Opposition (Dkt. #22), and Defendant replied (Dkt. #23). On September 7, 2011, the court granted Defendant's Motion to Dismiss the Second Amended Complaint (Dkt. #20). *See* Order (Dkt. #24). The Clerk of Court entered judgment in favor of Defendant and against Plaintiff with prejudice. *See* Dkt. #25. Plaintiff then filed a second Opposition (Dkt. #26) to the Motion to Dismiss the Second Amended Complaint on September 13, 2011.


The Federal Rules of Civil Procedure and the Local Rules do not provide for second oppositions (essentially sur-replies) as a matter of right, and Plaintiff has not moved this court for, nor has the court granted, leave to file the sur-reply. A sur-reply may only be filed with leave of court and only then to address new matters raised in a reply to which a party would otherwise be unable to respond. Additionally, a district court has the inherent authority to strike a party's submissions. *See Spurlock v.*

1 *F.B.I.*, 69 F.3d 1010, 1016 (9th Cir. 1995) (court has authority over “administration of its business” and
2 to manage its docket); *Metzger v. Hussman*, 682 F.Supp. 1109, 1110 (D. Nev. 1988) (striking late-filed
3 opposition and noting “[a]pplicable rules of procedure, including Local Rules, must be enforced . . . in
4 any case so that the Court may maintain control over the progress of litigation”).

5 Accordingly,

6 **IT IS ORDERED** that Defendant’s Motion to Strike Plaintiff’s Reply in Support of its Motion
7 Not to Dismiss the Second Amended Complaint (Dkt. #27) is GRANTED.

8 Dated this 27th day of October, 2011.

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12 PEGGY A. LEEN
13 UNITED STATES MAGISTRATE JUDGE
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